

STATE WATER RESOURCES CONTROL BOARD
BOARD MEETING SESSION--DIVISION OF WATER QUALITY
OCTOBER 21, 2004

ITEM 8

SUBJECT

CONSIDERATION OF A RESOLUTION APPROVING AN AMENDMENT TO THE WATER QUALITY CONTROL PLAN FOR THE LOS ANGELES REGION INCORPORATING A TOTAL MAXIMUM DAILY LOAD FOR BACTERIA AT LOS ANGELES HARBOR

DISCUSSION

The Los Angeles Regional Water Quality Control Board (Regional Board) adopted an updated Water Quality Control Plan (Basin Plan) on June 13, 1994. The Basin Plan was approved by the State Water Resources Control Board (SWRCB) on November 17, 1994 and by the Office of Administrative Law (OAL) on February 23, 1995. On October 25, 2001, the Regional Board adopted Resolution No. 01-018 to update the current Basin Plan objectives for bacteria in waters designated as water contact recreation (REC-1). On July 18, 2002, SWRCB approved the revised bacterial objectives, which were approved by OAL on September 19, 2002 and by the U.S. Environmental Protection Agency (USEPA) on September 25, 2002.

On July 1, 2004, the Regional Board adopted Resolution No. 2004-011 ([Attachment](#)) amending its Basin Plan to incorporate a Total Maximum Daily Load ([TMDL](#)) for bacteria at Los Angeles Harbor (Inner Cabrillo Beach and the Main Ship Channel). Chapter 3 of the Basin Plan contains water quality objectives for bacteria that shall not be exceeded in waters designated for REC-1.

The Los Angeles Harbor, including Inner Cabrillo Beach and the Main Ship Channel, is located in the southern part of Los Angeles County. The Los Angeles Harbor is administered by the City of Los Angeles as the Port of Los Angeles. Both Inner Cabrillo Beach and the Main Ship Channel often have high levels of bacteria, frequently exceeding bacterial standards, indicating the potential for water contact public health problems. Inner Cabrillo Beach and the Main Ship Channel are listed on the 2002 State of California Clean Water Act section 303(d) list of water quality limited segments for beach closures caused by bacteria.

There are three recent actions of the Regional Board that support the Los Angeles Harbor TMDL. First, the Basin Plan was amended on October 25, 2001 to update bacterial objectives for waters designated as REC-1. Inner Cabrillo Beach is designated as an existing REC-1 use and the Main Ship Channel is designated as a potential REC-1 use. Second, the Regional Board adopted a TMDL for bacteria at the Santa Monica Bay Beaches on January 1, 2002 and on

December 12, 2002. The Santa Monica Bay Beaches Bacteria TMDL evaluated empirical data and, relying on the prior bacterial objective update, used a scientific basis for expressing waste load allocations as “allowable exceedance days.” In addition, the Santa Monica Bay Beaches Bacteria TMDL utilized a “reference system/anti-degradation” approach acknowledging that empirical data indicated a certain number of exceedance days could be attributed to natural sources. Third, the Regional Board adopted a TMDL for bacteria for the Marina del Rey Harbor Mother’s Beach and Back Basins on August 7, 2003. The Marina del Rey Harbor Bacteria TMDL also used the reference beach/antidegradation approach and the same summer-dry, winter-dry and wet weather periods as the Santa Monica Bay Beaches Bacteria TMDL. The beaches of Marina del Rey Harbor and Los Angeles Harbor are similar in some respects; these beaches are protected, providing calm waters for swimming, have less mixing of near shore waters than an exposed/ocean beach, and are subject to bacteria from multiple sources, including storm water and local pollution and wildlife sources.

This TMDL is based on bacterial objectives contained in the Basin Plan and takes the same reference beach/anti-degradation approach as in the Santa Monica Bay Beaches Bacteria TMDL and Marina del Rey Harbor Bacteria TMDL and uses the same summer-dry, winter-dry and wet weather target periods as these previous TMDLs. The specific exceedance days allowable for this TMDL based for these weather periods and for specific locations can be found in the Regional Board amendment language.

The TMDL will require the City of Los Angeles to reduce the number of bacterial exceedances at Inner Cabrillo Beach and will require the City of Los Angeles and the County of Los Angeles to reduce the number of exceedances of the bacteria objectives in the Main Ship Channel. The TMDL does not require load reductions from minor point sources enrolled under National Pollutant Discharge Elimination System or Waste Discharge Requirement permits.

The Los Angeles Harbor Bacteria TMDL establishes a 5-year implementation plan for reducing the number of exceedances of bacteria objectives in the Los Angeles Harbor and identifies the City of Los Angeles as the responsible party for effecting load reductions at Inner Cabrillo Beach, and both the City of Los Angeles and the County of Los Angeles as the responsible parties for effecting load reductions at the Main Ship Channel. The implementation plan outlines both Best Management Practices (BMPs) for additional trash cleanup and sand management, as well as source reduction activities such as storm water diversion. In addition, the implementation plan requires that, if BMPs and source reduction are not sufficient to reduce bacterial exceedances at Inner Cabrillo Beach, structural or mechanical circulation improvement solutions be evaluated and implemented.

This TMDL includes two special studies. The first is to be conducted by the City of Los Angeles and County of Los Angeles to provide additional data on bacteria loadings from the storm drains of the Inner Cabrillo Harbor and the Main Ship Channel to better determine the contributions of mass loadings of the specific storm drains or channels so that diversions can be most effectively designed. Second, the City of Los Angeles will collect additional data on the

waters of Northern Inner Cabrillo Beach to better characterize that area. Based on these data, the Regional Board may consider a “natural sources” exclusion for this area.

Similar to the Santa Monica Bay Beaches Bacteria TMDL and the Marina del Rey Harbor Bacteria TMDLs, the implementation plan also schedules a re-evaluation of the TMDL four years after the effective date to re-examine the following: exceedance days based on new monitoring data, the reference system selected, the reference year used for calculation of exceedance days, the geometric mean provision, and a “natural sources” exclusion for the northern portion of Inner Cabrillo Beach.

POLICY ISSUE

Should SWRCB approve the amendment to the Basin Plan in accordance with the Staff Recommendation below?

FISCAL IMPACT

Regional Board and SWRCB staff work associated with or resulting from this action can be accomplished within budgeted resources.

RWQCB IMPACT

Yes, Los Angeles Regional Board.

STAFF RECOMMENDATION

That SWRCB:

1. Approves the amendment to the Regional Board Basin Plan to incorporate a TMDL for bacteria at Los Angeles Harbor as approved in Regional Board Resolution No. 2004-011.
2. Authorizes the Executive Director or designee to transmit the amendment and administrative record for this action to OAL and the TMDL to USEPA for approval.

STATE WATER RESOURCES CONTROL BOARD
RESOLUTION NO. 2004-APPROVING AN AMENDMENT TO THE WATER QUALITY CONTROL
PLAN FOR THE LOS ANGELES REGION INCORPORATING A TOTAL
MAXIMUM DAILY LOAD FOR BACTERIA AT LOS ANGELES HARBOR

WHEREAS:

1. The Los Angeles Regional Water Quality Control Board (Regional Board) adopted a revised Water Quality Control Plan (Basin Plan) for the Los Angeles region on June 13, 1994, which was approved by the State Water Resources Control Board (SWRCB) on November 17, 1994, and by the Office of Administrative Law (OAL) on February 23, 1995.
2. On July 1, 2004, the Regional Board adopted Resolution No. 2004-011 (Attachment) amending the Basin Plan to incorporate a Total Maximum Daily Load (TMDL) for bacteria at Los Angeles Harbor (Inner Cabrillo Beach and the Main Ship Channel including the Inner Harbor).
3. Regional Board staff prepared documents and followed procedures satisfying environmental documentation requirements in accordance with the California Environmental Quality Act and other State laws and regulations.
4. The Regional Board found and SWRCB finds that the additions of this amendment would result in no adverse effect on wildlife, and the amendment would be consistent with the State Antidegradation Policy (SWRCB Resolution No. 68-16) and federal antidegradation requirements.
5. SWRCB finds that the Basin Plan amendment is in conformance with Water Code section 13240, which specifies that Regional Water Quality Control Boards may revise Basin Plans, and section 13242, which requires a program of implementation of water quality objectives. SWRCB also finds that the Basin Plan amendment is consistent with the requirements of section 303(d) of the Clean Water Act.
- ~~6. The TMDL assigns waste load allocations (WLAs) equal to 17 exceedance days unless, to satisfy anti-degradation requirements, the particular water body has consistently had less than 17 days of exceedance. In that event, the WLA was calculated using the number of exceedance days that actually occur during the 90th percentile storm year. A commenter expressed concern that calculating the anti-degradation based exceedance threshold at the 90th percentile storm year would cause the storm water permittees to be out of compliance in any year that is wetter than the 90th percentile storm year. SWRCB finds that the WLAs are not water quality based effluent limitations (WQBELs) and are therefore not directly enforceable against the permittees. The permittees are only required to comply with the WQBELs after their permits have been revised to incorporate the WLAs. WQBELs are only required to be "consistent with the assumptions and requirements" of the WLAs. They need not be identical to them. Accordingly, the commenter's concern about being out of compliance during a year wetter than the 90th percentile storm year is not yet timely, but should be considered during the permit revision process. Further, selecting the 90th percentile storm year for the WLAs is a policy call that the Regional Board, with the subsequent approval of the SWRCB, has used in prior bacteria TMDLs.~~
- ~~6.~~
7. Several commenters expressed concern that the potential REC-1 beneficial use designation is not appropriate for the Main Ship Channel (MSC), because recreation is neither permitted nor safe in the MSC. The Regional Board replied that a federal consent decree had combined the MSC and Cabrillo Beach (Inner) into a single analytical unit, essentially requiring the Regional Board to address the MSC and Beach in a single bacteria TMDL. The hydrologic connection and proximity of the water bodies makes the coordinated consideration of the two water bodies appropriate. Moreover, the Regional Board noted that SCUBA diving is a typical maintenance activity in the MSC. SWRCB finds that a Use Attainability Analysis (UAA) may be an

October 21, 2004 Board Meeting

appropriate means to resolve ~~this concern over the potential REC-1 use in the MSC.~~ SWRCB further finds that the permittees have been allocated adequate time to conduct a UAA and have it considered, prior to the time that compliance is required under the TMDL.

8. Several commenters argued that the Inner Harbor is not listed on the 303(d) list and therefore should not be subject to this TMDL. SWRCB finds that the Inner Harbor is part of the MSC, which is listed on the 303(d) list. SWRCB also finds that resolving bacterial impairment in the MSC would require control of bacterial sources discharged to the Inner Harbor in any event, and therefore they must be included in the TMDL.

6.9. A Basin Plan amendment does not become effective until approved by SWRCB and until the regulatory provisions are approved by OAL. Additionally, TMDLs must be approved by the U.S. Environmental Protection Agency (USEPA).

THEREFORE BE IT RESOLVED THAT:

SWRCB:

1. Approves the amendment to the Regional Board Basin Plan to incorporate a TMDL for bacteria at Los Angeles Harbor as approved in Regional Board Resolution No. 2004-011.
2. Authorizes the Executive Director or designee to transmit the amendment and administrative record for this action to OAL and the TMDL to USEPA for approval.

CERTIFICATION

The undersigned, Clerk to the Board, does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the State Water Resources Control Board held on October 21, 2004.

Debbie Irvin
Clerk to the Board